

**REMARKS**

Claims 1-24 were originally filed in the present application.

Claims 1-24 are pending in the present application.

Claims 1-24 were rejected in the April 21, 2006 Office Action.

No claims have been allowed.

No claims are amended herein.

Claims 1-24 remain in the present application. Reconsideration of the claims in light of the following arguments is respectfully requested.

In Section 1 of the April 21, 2006 Office Action, the Examiner provisionally rejected Claims 1-24 on the ground of non-statutory obviousness-type double patenting as being unpatentable over Claims 1-30 of copending U.S. Patent Application No. 10/764,164. Applicants respectfully disagree.

The Examiner admits that the allegedly conflicting claims are not identical. However, the Examiner goes on to suggest that the two applications are not patentably distinguishable because:

they both teach controlling the use of a reduced cycle mode of a mobile station. The only difference in the claim sets is that the mobile station sends the reduced slot cycle index value request in a page response message as opposed to sending it in a first release order message.

The Examiner has merely compared the language of the claims of the present application with that of the '483 Patent Application and made conclusory statements in support of the rejection. The Examiner has failed to state or allege (1) the differences between the inventions as *defined by the allegedly conflicting claims*; and (2) the reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim presently at issue would have been an *obvious*

*variation* of the invention defined in the cited patent application. MPEP §804, p. 800-21 (8<sup>th</sup> ed., rev. 3, August 2005) (*emphasis added*).

The analysis employed in an obviousness-type double patenting rejection parallels the guidelines for the analysis of a 35 U.S.C. §103 obviousness determination. *Id.* Thus, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. *Id.* at 2100-133. Absent such a *prima facie* case, Applicants are under no obligation to produce evidence of nonobviousness. *Id.* To establish a *prima facie* case of obviousness, three basic criteria must be met. *Id.* First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *Id.* Second, there must be a reasonable expectation of success. *Id.* Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *Id.* The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicants' disclosure. *Id.*

Without the requisite support, Applicants traverse the provisional double-patenting rejection and request favorable reconsideration and the withdrawal of the obviousness-type double patenting rejection.

In Sections 2 and 3 of the April 21, 2006 Office Action, the Examiner rejected Claims 1-24 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,822,973 to Kelley, et al. ("Kelley"). The Applicants respectfully traverse the rejection.

The *Kelley* reference describes a base station that participates in a reduced slotted mode operation initiated by a mobile station. *Kelley*, col. 5, lines 36-37. The mobile station sends a reduced slotted mode request to a base station and receives a response indicating whether the base station supports reduced slotted mode operation. *Kelley*, col. 6, lines 3-7. If the response indicates that the base station does support such operation, the mobile station begins operating in reduced slotted mode. *Kelley*, col. 6, lines 20-23.

In contrast, independent Claim 1 recites a base station capable of initiating a reduced slot cycle mode of operation. The base station includes a message controller capable of notifying a mobile station of the activation of a data session. The base station further includes a reduced slot cycle controller capable of causing the message controller to send a message to the mobile station specifying a slot cycle index at which the mobile station will operate. Because the *Kelley* reference describes operation in a reduced slotted mode initiated by a mobile station, while Claim 1 recites a base station that is capable of initiating reduced slotted mode operation, the Applicants respectfully submit that the *Kelley* reference does not anticipate Claim 1.

As such, Claim 1 recites unique and non-obvious limitations that are not disclosed, suggested or even hinted at in the *Kelley* reference and is therefore patentable over the *Kelley* reference. Furthermore, dependent Claims 2-6 depend from Claim 1 and recite all of the unique and non-obvious limitations recited in Claim 1. Thus, Claims 2-6 are also patentable over the cited prior art references.

The Applicant notes that independent Claims 7, 13 and 19 recites limitations that are analogous to the unique and non-obvious limitations recited in Claim 1. This being the case, Claims 7, 13 and 19 are patentable over the *Kelley* reference. Finally, Claims 8-12, 14-18 and 20-24 depend from Claims 7, 13 and 19, respectively, and recite all of the unique and non-obvious limitations recited in their base claims. Thus, Claims 8-12, 14-18 and 20-24 are also patentable over the *Kelley* reference.

SUMMARY

For the reasons given above, the Applicant respectfully requests reconsideration and allowance of the pending claims and that this application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@munckbutrus.com*.

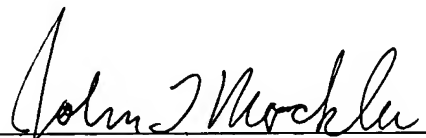
The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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